

APR 28 2009

Dkt. 76786/JPW/AJC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Peter David East and Susan Elizabeth Brown
Serial No.: 10/590,539 Examiner: Gangle, B.J.
Filed : May 30, 2007 (\$371) Group Art Unit: 1645
For : ANTIFUNGAL PEPTIDES

30 Rockefeller Plaza, 20th Fl.
New York, New York 10112
April 22, 2009

By Facsimile - (571)273-1553
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

COMMUNICATION IN RESPONSE TO MARCH 31, 2009 NOTICE OF NON-
COMPLIANT AMENDMENT (37 C.F.R. §1.121)

This Communication is submitted in response to a March 31, 2009 Notice of Non-Compliant Amendment (37 C.F.R. §1.121) issued by the United States Patent and Trademark Office in connection with the above-identified application. A response to the Notice is due April 30, 2009. Accordingly, this Communication is being timely filed.

The March 31, 2009 Notice indicates that the Amendments filed on March 10, 2009 (received at the USPTO on March 13, 2009) and March 13, 2009 (received at the USPTO on March 17, 2009) in connection with the subject application do not comply with the Patent Office rules because "new claims should not be underlined for both amendments," and "amendment 03/17/09 needs a signature." A copy of the Notice is attached hereto as **Exhibit A**.

Applicants note that, in accordance with the Notice, the correction required is only the submission of the corrected section of the non-compliant amendment in compliance with 37 C.F.R. §1.121. Accordingly, applicants attach hereto as **Exhibit B** a corrected listing of all pending claims in response to the March 31, 2009 Notice. Specifically, new claims 28 and 29 are no

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longer underlined.

In addition, the March 31, 2009 Notice asserts that the "amendment 03/17/09 needs a signature." Applicants maintain that the Substitute Amendment filed on March 13, 2009 (received at the USPTO on March 17, 2009) was signed in accordance with 37 C.F.R. 1.4(d)(1). Specifically, the signature can be found on page 30 of the Substitute Amendment.

Upon review of the Image File Wrapper on the Patent Application Information Retrieval (PAIR) system, applicants noticed that pages 22 to 30 of the Remarks section of the Substitute Amendment, which includes the signature page at page 30, and which also includes an Information Disclosure Statement at page 29, was entered in the PAIR system as an Information Disclosure Statement (IDS).

In an April 16, 2009 telephone conference between Legal Instruments Examiner, Tina M. Bell, of the U.S. Patent Office and Andrew Cochran of the undersigned's office, Ms. Bell indicated that it was an error to categorize the Amendment as an IDS. Upon reviewing the Image File Wrapper of the subject application on the PAIR system subsequent to the April 16, 2009 telephone call, applicants noted that pages 22 to 30 of the Substitute Amendment are no longer imaged as part of an Information Disclosure Statement Letter, but are now entered as Applicant Arguments/Remarks Made in an Amendment.

Accordingly, applicants understand that by changing the status of pages 22 to 30 of the Substitute Amendment from an Information Disclosure Statement to Applicant Arguments/Remarks Made in an Amendment, the U.S. Patent Office has acknowledged that the March 13, 2009 Substitute Amendment (received at the USPTO on March 17, 2009) was signed and no further response is required at this time in regard to the signature. Please advise if applicants' understanding is incorrect.

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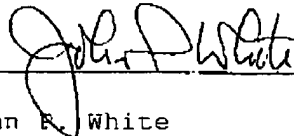
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If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

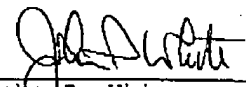
Respectfully submitted,



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I hereby certify that this correspondence is being submitted by facsimile on this date to:

Commissioner for Patents
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Alexandria, VA 22313-1450
ATTN: Tina M. Bell
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 4/22/09
John P. White Date
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